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Attorney for RESPONDENT

FILED  
13 JUN -5 AM 10:22  
CLERK U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
DEPUTY

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

Petitioner: SAN DIEGO DISTRICT ATTORNEY

and

Respondent: GARY MICHAEL HOPKINS

13 CV 1298 WQH WMC

NOTICE OF REMOVAL  
PURSUANT TO  
28 U.S.C. §1441 ET SEQ.

Respondent, GARY MICHAEL HOPKINS, by and through his attorney of record,  
VICTOR MORDEY, ESQ., submits this Notice of Removal of Case No. D 542 977 of the  
Superior Court of California, San Diego, which is currently pending before Judge Lorna Alksne.  
This Notice of Removal is made pursuant to 28 USC §1441 et seq.

**I JURISDICTIONAL BASIS UNDER FEDERAL LAW FOR REMOVAL:**  
**ORIGINAL SUBJECT MATTER JURISDICTION**

28 U.S.C. §1441(a) states:

“(a) Except as otherwise expressly provide by an Act of Congress, any civil action  
brought in State court of which the district courts of the United States have original  
jurisdiction, may be removed by the defendant or the defendants, to the district court of

1 the United States for the district and division embracing the place where such action is  
2 pending.” 28 U.S.C. §1441(a).

3 This case involves an Application for Return of a Child Pursuant to the Hague  
4 Convention on the Civil Aspects of International Child Abduction (Convention), implemented at  
5 42 U.S.C. §11602 et seq. Pursuant to 42 U.S.C. §11603(a) courts of the “ . . . States and the  
6 United States district courts shall have concurrent original jurisdiction of actions arising under  
7 the Convention.” Thus, pursuant to 28 U.S.C. §1441(a) and 42 U.S.C. §11603(a), jurisdiction is  
8 proper with this United States District Court.

9 In addition, although not necessary for our request that this court take subject  
10 matter jurisdiction of this case, it is worth noting that all statutes involved in the adjudication of  
11 this case are federal statutes – not State statutes. Lastly, the Convention is an international  
12 treaty. Consequently, it would seem more appropriate for a federal court to adjudicate this matter  
13 rather than a State court.

## 14 II TIMELINESS OF REMOVAL

15 Notice of Removal is timely because it was filed and served within 30 days of  
16 Respondent being served and/or because he has not yet been served with the Application.  
17 Indeed, the Application was filed May 22, 2013, which means that even if the Respondent had  
18 been served the very same day it was filed, he would have until June 21, 2013, to file the Notice  
19 of Removal. Since the Notice of Removal was filed before June 21, 2013, by an standard, it has  
20 been timely filed.

21 Respectfully submitted,

22  
23 DATED: 6-5-13

24 SIGNED: 

25 Victor Mordey, Esq.,

26 Attorney for RESPONDENT  
27  
28

**PROOF OF PERSONAL SERVICE**

I, the undersigned, declare as follows:

At the time of service I was at least 18 years of age, a citizen of the United States, and not a party to this legal action My business address is: Law Office of Victor Mordey, 1061 Tierra del Rey, Suite 202, Chula Vista, CA 91910. I personally served the following documents:

**NOTICE OF REMOVAL**

on:

**CLERK OF THE COURT FOR HONORABLE LORNA ALKSNE**

330 West Broadway, Department 64

San Diego, CA 92101

and:

**DEPUTY DISTRICT ATTORNEY JESSICA MATULIS LEES**

330 West Broadway, Suite 1220

San Diego, CA 92101

on

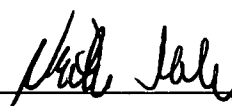
6-5-13

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and that document was executed in San Diego, California, on June 7, 2013.

DATED:

6-5-13

SIGNED:



Victor Mordey, Esq.